



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hodson et al.

Serial No. 09/872,514

Group Art Unit: 3625

Filed: June 1, 2001

Examiner: Fadok, Mark A.

Title: INTEGRATED ELECTRONIC SHOPPING CART SYSTEM AND METHOD

*I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as FIRST CLASS MAIL in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on:*

Date 2-16-04 Signature *Juan Pique*

BEST AVAILABLE COPY

\* \* \*

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Commissioner of Patents  
& Trademarks  
Washington, D.C. 20231

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to the Restriction/Election Requirement June 3, 2004, which set a 3 month statutory period for reply, to which a three-month statutory extension set the period for reply to the Office Action to expire on December 3, 2004. The abandonment date of this application is December 4, 2004 (and an abandonment notice was mailed on May 12, 2005).

Applicants hereby petition for revival of this application. The following items accompany this petition: (i) the statutory petition fee of \$750 set forth in 37 CFR

§ 1.17(m); (ii) a Response to the Restriction/Election Requirement; and (iii) a newly executed Power of Attorney.

Applicants hereby concede that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Applicants previously submitted a Response to the Restriction/Election Requirement on October 7, 2004, which was not entered as it inadvertently failed to include the full text of certain canceled claims. However, due to a change in address of record, the undersigned did not receive a copy of the miscellaneous action from the PTO, which was returned to the PTO as undeliverable (attached hereto as Exhibit A). During a subsequent telephone call with the Examiner, applicants' prior representative indicated (as noted in the interview summary) that it no longer represented applicants in this matter but would try to forward a copy of the miscellaneous communication to the appropriate individuals. Subsequently, a notice of abandonment was mailed on May 12, 2005, which was returned to the PTO as undeliverable (attached hereto as Exhibit B). Having now been fully apprised of the status of the above-identified application, applicants desire to continue the prosecution of the subject application whose abandonment was unintentional. At no time did applicants intend for the patent application to lapse. Applicants therefore respectfully request the Director to grant their petition to revive the unintentionally abandoned patent application.

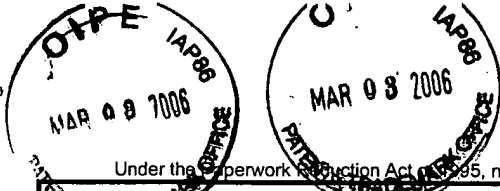
Dated: February 16, 2006    Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY US LLP



William G. Goldman  
Reg. No. 42,590

Patent Department  
DLA PIPER RUDNICK GRAY CARY US LLP  
2000 University Avenue  
East Palo Alto, CA 94304  
Tel: 650/833-2112  
Fax 650/833-2001



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

355310-991201

First named inventor: David Hodson

Application No.: 09/872,514

Art Unit: 3625

Filed: June 1, 2001

Examiner: Mark Fadok

Title:

INTEGRATED ELECTRONIC SHOPPING CART SYSTEM AND METHOD

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of Reply and Fee (identify type of reply):

☐ has been filed previously on \_\_\_\_\_.

☒ is enclosed herewith.

03/06/2006 MBIZUNES 00000093 09872514

01 FC:2453

750.00 OP

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

☐ as been paid previously on \_\_\_\_\_.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature

February 16, 2006  
Date

WILLIAM GOLDMAN  
Typed or printed name

42,590  
Registration Number, if applicable

DLA PIPER RUDNICK GRAY CARY US LLP  
Address

650-833-2112  
Telephone Number

2000 University Avenue, East Palo Alto, CA 94303  
Address

- Enclosures: ☒ Fee Payment  
☒ Reply  
☐ Terminal Disclaimer Form  
☒ Additional sheets containing statements establishing unintentional delay  
☒ Other: Form SB 82, Recorded Assignment, Postcard, Check No.

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

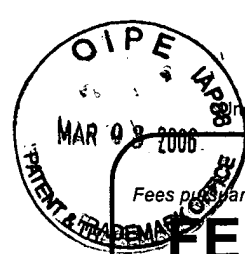
- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

February 16, 2006  
Date

  
Susan Pingue

Signature

Typed or printed name of person signing certificate



Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## for FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$750.00)

### Complete If Known

Application Number	09/872,514
Filing Date	June 1, 2001
First Named Inventor	David Hodson
Examiner Name	Mark Fadok
Art Unit	3625
Attorney Docket No.	355310-991201

### METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 07-1896 Deposit Account Name: DLA Piper Rudnick Gray Cary US LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Small Entity	
	Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP = 0	x 50	= 0
HP = highest number of total claims paid for, if greater than 20		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP = 0	x 200	= 0
HP = highest number of independent claims paid for, if greater than 3		

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = 0	/50 = 0	(round up to a whole number) x	250	= 0

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition To Revive Unintentionally - Abandoned Applc. filing fees 750.00

#### SUBMITTED BY

Signature		Registration No. 42,590 (Attorney/Agent)	Telephone 650-833-2112
Name (Print/Type)	WILLIAM GOLDMAN		Date February 16, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,514	06/01/2001	David Hodson	10419-991201	1510

7590  
10/27/2004  
William Kaplan  
iKiosk  
3073 Corbin Drive  
Santa Clara, CA 95051



EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



09/172514

COMMISSIONER FOR PATENT:  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 10/17/06 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

## THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/office1yer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Tonya N. Nadeau  
Legal Instruments Examiner (LIE)(703) 308-7475  
Telephone No.

IC3600

Bldg./Room

CPK5

PATENT AND TRADEMARK OFFICE

22313-1450

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Ifw

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/872,514

06/01/2001

David Hodson

10419-991201

1510

7590

05/12/2005

William Kaplan  
iKiosk  
3073 Corbin Drive  
Santa Clara, CA 95051



EXAMINER

FADOK, MARK A

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED  
MAY 25 2005  
OIPE/JCWS



091872514

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 10/7/08 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

## THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/procnotice/office/ver.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Telephone No.

**Notice of Abandonment**

Application No.

09/872,514

Examiner

Mark Fadok

Applicant(s)

HODSON ET AL.

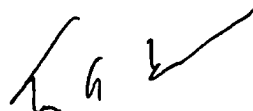
Art Unit

3625

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 June 2004.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 07 October 2004 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:  
  
see Interview summary



Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

<b>Interview Summary</b>	Application No.		Applicant(s)	
	09/872,514		HODSON ET AL.	
	Examiner		Art Unit	
	Mark Fadok		3625	

All participants (applicant, applicant's representative, PTO personnel):

(1) Mark Fadok. (3) \_\_\_\_\_.

(2) Mr. Tim Lohse (650) 833-2055. (4) \_\_\_\_\_.

Date of Interview: 10 May 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The office has sent out 2 mailings of a non-responsive amendment (mailed 10/27/2004), which were returned on 11/12/2004 and once again on 1/14/2005. The examiner was unable to contact the applicant, since no telephone number was available. The examiner did contact Mr. Lohse who had sent in the non-responsive election on 10/7/2004. Mr. Lohse asked that a copy of this correspondence be sent to him so he might be able to contact the applicant. The examiner noted that a Notice of Abandonment will be sent to the address of record and since Mr. Lohse is no longer the attorney of record (see office correspondence 6/12/2004) a copy will not be sent to his office. The examiner did inform Mr. Lohse that he could contact the applicant and inform him that this correspondence is being sent and if the applicant wishes to revive the application he could contact the examiner..

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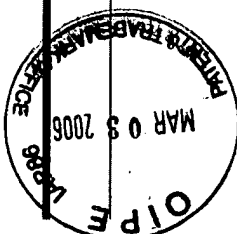
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05-25-2005	Mail returned to USPTO as undelivered	7	<input type="checkbox"/>	<input type="checkbox"/>
05-12-2005	Miscellaneous Action with SSP	2	<input type="checkbox"/>	<input type="checkbox"/>
05-12-2005	Abandonment	1	<input type="checkbox"/>	<input type="checkbox"/>
05-12-2005	Examiner Interview Summary Record (PTOL - 413)	3	<input type="checkbox"/>	<input type="checkbox"/>
01-14-2005	Mail returned to USPTO as undelivered	2	<input type="checkbox"/>	<input type="checkbox"/>
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10-27-2004	Miscellaneous Action with SSP	2	<input type="checkbox"/>	<input type="checkbox"/>



10-07-2004	<u>Response to Election / Restriction Filed</u>	1	<input type="checkbox"/>
10-07-2004	<u>Claims</u>	5	<input type="checkbox"/>
10-07-2004	<u>Applicant Arguments or Remarks Made in an Amendment</u>	1	<input type="checkbox"/>
10-07-2004	<u>Miscellaneous Incoming Letter</u>	1	<input type="checkbox"/>
10-07-2004	<u>Extension of Time</u>	2	<input type="checkbox"/>
06-03-2004	<u>Requirement for Restriction/Election</u>	10	<input type="checkbox"/>
06-03-2004	<u>Index of Claims</u>	1	<input type="checkbox"/>
06-12-2003	<u>Miscellaneous Action with SSP</u>	1	<input type="checkbox"/>
06-03-2003	<u>Miscellaneous Incoming Letter</u>	1	<input type="checkbox"/>
06-03-2003	<u>Oath or Declaration filed</u>	6	<input type="checkbox"/>
04-23-2003	<u>Power of Attorney (may include Associate POA)</u>	2	<input type="checkbox"/>
03-25-2003	<u>Petition Decision</u>	2	<input type="checkbox"/>
02-06-2003	<u>Miscellaneous Incoming Letter</u>	2	<input type="checkbox"/>
02-06-2003	<u>Oath or Declaration filed</u>	4	<input type="checkbox"/>
01-09-2002	<u>Transmittal letter</u>	3	<input type="checkbox"/>
01-09-2002	<u>Drawings</u>	15	<input type="checkbox"/>
01-09-2002	<u>Miscellaneous Incoming Letter</u>	3	<input type="checkbox"/>
01-09-2002	<u>Drawings</u>	15	<input type="checkbox"/>
01-09-2002	<u>Extension of Time</u>	1	<input type="checkbox"/>
10-29-2001	<u>Miscellaneous Action with SSP</u>	1	<input type="checkbox"/>

10-16-2001	<u>Information Disclosure Statement (IDS) Filed</u>	2	<input type="checkbox"/>
<b>10-16-2001</b>	<b><u>NPL Documents</u></b>	4	<input type="checkbox"/>
10-16-2001	<u>NPL Documents</u>	3	<input type="checkbox"/>
<b>10-09-2001</b>	<b><u>Applicant Response to Pre-Exam Formalities Notice</u></b>	2	<input type="checkbox"/>
10-09-2001	<u>Oath or Declaration filed</u>	4	<input type="checkbox"/>
<b>09-21-2001</b>	<b><u>Applicant Response to Pre-Exam Formalities Notice</u></b>	2	<input type="checkbox"/>
09-21-2001	<u>Oath or Declaration filed</u>	4	<input type="checkbox"/>
<b>08-01-2001</b>	<b><u>Pre-Exam Formalities Notice</u></b>	2	<input type="checkbox"/>
06-01-2001	<u>Transmittal letter</u>	3	<input type="checkbox"/>
<b>06-01-2001</b>	<b><u>Specification</u></b>	37	<input type="checkbox"/>
06-01-2001	<u>Claims</u>	13	<input type="checkbox"/>
<b>06-01-2001</b>	<b><u>Abstract</u></b>	1	<input type="checkbox"/>
06-01-2001	<u>Drawings</u>	15	<input type="checkbox"/>
<b>06-01-2001</b>	<b><u>Oath or Declaration filed</u></b>	4	<input type="checkbox"/>
06-01-2001	<u>Miscellaneous Incoming Letter</u>	1	<input type="checkbox"/>
<b>06-01-2001</b>	<b><u>Fee Worksheet (PTO-875)</u></b>	1	<input type="checkbox"/>
06-01-2001	<u>Fee Worksheet (PTO-875)</u>	1	<input type="checkbox"/>
<b>06-01-2001</b>	<b><u>Claims Worksheet (PTO-2022)</u></b>	1	<input type="checkbox"/>

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